

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA §
Vs. § CRIMINAL ACTION NO. 6:09CR18
ERIC FERNANDO REYES §

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

On July 15, 2009, the Court referred ancillary forfeiture proceedings in the above-styled case to the undersigned. Specifically, the Court referred: (1) D-1 CAPITAL, LP'S Petition Claiming an Interest in Property (document [#136](#)); (2) John Ealba's Petition Claiming Interest in Property (document [#170](#));¹ (3) Erika Reyes's Petition Claiming Interest in Property (document [#171](#)); (4) Erika Reyes's Petition Claiming Interest in Property (document [#172](#)); (5) Brenda Griego's Petition Claiming Interest in Property (document [#173](#)); (6) Evangelina Serrato's Petition Claiming Interest in Property (document [#174](#)); and (7) Victor Dominguez's Petition Claiming Interest in Property (document [#175](#)). These ancillary forfeiture proceedings were referred to the undersigned for a hearing and proposed findings of fact and recommendations as to their disposition. On October 27, 2009, the Government filed a Motion in Response to Ancillary Petitions of Victor Dominguez and D-1 Capital, LP (document [#220](#)), seeking to dismiss the 2001 black Kaufman AC trailer, VIN

¹John Ealba's Petition Claiming Interest in Property (document [#170](#)) was disposed of on July 30, 2009 when the United States of America's Motion in Response was granted and the 1964 Red Chevrolet Impala Show Car, VIN 41847U136666; License Plate TKC53D was dismissed from the Preliminary Order of Forfeiture and released to the Claimant, John Ealba.

15XFW50331L000535, License Plate 87ZYKC, from the previously entered Preliminary Order of Forfeiture.

In this case, Victor Dominguez and D-1 Capital, LP, provided supporting documentation with their claims appearing to establish Dominguez as the registered owner of the Kaufman trailer that is subject to the preliminary order of forfeiture and D-1 Capital, LP as the lien holder. The Government filed a motion seeking to dismiss the 2001 black Kaufman AC trailer, VIN 15XFW50331L000535, License Plate 87ZYKC, from the previously entered Preliminary Order of Forfeiture. The United States does not contest the ancillary petitions filed on behalf of Victor Dominguez and D-1 Capital, LP, in connection with the Kaufman trailer. Neither Dominguez nor D-1 Capital, LP filed a response to the motion.

Recommendation

It is recommended that the Government's Motion in Response to Ancillary Petitions of Victor Dominguez and D-1 Capital, LP (document [#220](#)) be granted. It is further recommended that the 2001 black Kaufman AC trailer, VIN 15XFW50331L000535, License Plate 87ZYKC be dismissed from the previously entered Preliminary Order of Forfeiture and that the U.S. Marshal be ordered to release the Kaufman trailer to the registered owner, Victor Dominguez.

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within ten days after service shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain

error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Assn.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

So **ORDERED** and **SIGNED** this **18** day of **November, 2009**.


JUDITH K. GUTHRIE
UNITED STATES MAGISTRATE JUDGE